

### **REMARKS**

In an effort to expedite prosecution, Applicants have canceled claims 1-4, 9-24 and 35-44, leaving pending only claims 5-8 and 25-34. At present, claims 5-8 correspond to the elected invention presently under consideration and claims 25-34 stand withdrawn from consideration as directed to a non-elected invention. However, in that claims 5-8 were indicated allowable in the previous Office Action, Applicants respectfully that withdrawn claims 25-34, directed to a process for the preparation of the crystalline polymorph of claim 5, are ripe for rejoinder in accordance with the provisions of 37 C.F.R. § 1.104. To that end, Applicants have amended claims 27-29 and 31-34 to be in proper dependent claim format (i.e., “The” process according to claim X). Thus, Applicants respectfully submit that claims 5-8 and 25-34 are in condition for allowance and respectfully petition for an early indication of such.

Applicants expressly submit that the instant amendments are presented solely for the purpose of expediting prosecution and should not be construed as Applicants’ agreement with or acquiescence to the grounds of rejection previously set forth. Applicants also reserve the right to present claims commensurate in scope with those canceled herewith in one or more divisional applications.

### **CONCLUSION**

The outstanding Office Action set a three-month shortened statutory period for response, response being due on or before **June 2, 2010**. Accordingly, Applicants respectfully submit that this response is timely and no additional fee is required. However, in the event that further fees are required to enter the instant response and/or maintain the pendency of this application, the Commissioner is authorized to charge such fees to our Deposit Account No. 50-2101.

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If the Examiner has any questions or concerns regarding this communication, she is invited to contact the undersigned.

Respectfully submitted,

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By: **/chalin a. smith/**

Smith Patent Consulting, LLC  
515 East Braddock Road, Suite B  
Alexandria, VA 22314  
Telephone: (703) 549-7691  
Facsimile: (703) 549-7692

Name: Chalin A. Smith  
Title: Attorney for Applicant  
Registration No. 41,569

**CUSTOMER NUMBER 31,496**